

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JAMES JONES,

Plaintiff,

v.

Case No. 2:06-cv-299
HON. R. ALLAN EDGAR

RICK WERTANEN, et al.,

Defendants.

OPINION AND ORDER APPROVING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

The Court has reviewed the Report and Recommendation filed by the United States Magistrate Judge in this action on March 5, 2009. The Report and Recommendation was duly served on the parties. The Court has received objections from plaintiff. In accordance with 28 U.S.C. § 636(b)(1), the Court has performed *de novo* consideration of those portions of the Report and Recommendation to which objection has been made. The Court now finds the objections to be without merit.

The Report and Recommendation recommended that defendant Jon Jackola be dismissed from this action. Plaintiff argues that the recommendation was in error because he was not aware that he was required to file a motion for substitution of a party after defendant's attorney filed a suggestion of death for defendant Jackola. Plaintiff has not filed a motion for substitution of a party. The court must dismiss defendant Jon Jackola from this case.

THEREFORE, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (Docket #83) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that defendant Jon Jackola is DISMISSED from this action.

Dated: 5/5/09

/s/ R. Allan Edgar
R. ALLAN EDGAR
UNITED STATES DISTRICT JUDGE